

BINGHAM McCUTCHEN LLP
DONN P. PICKETT (SBN 72257)
GEOFFREY M. HOWARD (SBN 157468)
HOLLY A. HOUSE (SBN 136045)
ZACHARY J. ALINDER (SBN 209009)
BREE HANN (SBN 215695)
Three Embarcadero Center
San Francisco, CA 94111-4067
Telephone: (415) 393-2000
Facsimile: (415) 393-2286
donn.pickett@bingham.com
geoff.howard@bingham.com
holly.house@bingham.com
zachary.alinder@bingham.com
bree.hann@bingham.com

DORIAN DALEY (SBN 129049)
JENNIFER GLOSS (SBN 154227)
500 Oracle Parkway, M/S 507
Redwood City, CA 94070
Telephone: (650) 506-4846
Facsimile: (650) 506-7114
dorian.daley@oracle.com
jennifer.gloss@oracle.com

Attorneys for Plaintiffs
Oracle USA, Inc., Oracle International
Corporation, and Oracle EMEA Limited

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE USA, INC., *et al.*,
Plaintiffs,
v.
SAP AG, *et al.*,
Defendants.

CASE NO. 07-CV-01658 PJH (EDL)

**PLAINTIFFS' ADMINISTRATIVE
MOTION TO FILE DRAFT
STIPULATION UNDER SEAL;
DECLARATION IN SUPPORT OF
ADMINISTRATIVE MOTION**

1 **I. INTRODUCTION**

2 Plaintiffs Oracle USA, Inc., Oracle International Corporation, and Oracle EMEA Limited
3 (collectively, “Oracle”), together with Defendants SAP AG, SAP America, Inc., and
4 TomorrowNow, Inc. (collectively, “Defendants,” and with Oracle, the “Parties”), respectfully
5 request an Order sealing Exhibit B to the Parties’ August 18, 2009 Joint Discovery Conference
6 Statement (“Statement”). An unredacted version of this exhibit was lodged with the Court on
7 August 18, 2009. This request is made pursuant to Civil Local Rules 7-11 and 79-5 and the
8 Protective Order signed by Judge Martin Jenkins on June 6, 2007. This request is supported by
9 the Parties’ Stipulation to Permit Plaintiffs to File Draft Stipulation Under Seal, filed
10 concurrently with this Motion.

11 **II. ARGUMENT**

12 Oracle requests that the document described in the attached Declaration of Bree Hann
13 (“Hann Declaration”) be filed under seal. Good cause exists for filing the referenced document
14 under seal, because it contains and describes content that was designated by Defendants as
15 “Confidential Information” pursuant to the Parties’ Protective Order. Pursuant to Civil Local
16 Rule 79-5(d) and Paragraph 14 of the Protective Order, Oracle is obligated to lodge this
17 document with the Court with a request to file it under seal. Moreover, Defendants contend that
18 Exhibit B to the Statement reflects a “snapshot” of the Parties’ inchoate compromise discussions
19 under Fed. R. Evid. 408 and should be protected accordingly.

20 Oracle’s request is narrowly tailored, as required by Local Rule 79-5(a), and seeks to
21 protect only this document that contains Defendants’ allegedly confidential information, until
22 such time as Defendants may submit a declaration in accordance with Civil Local Rule 75-9(d)
23 and the Court makes a final ruling as to the confidentiality of the relevant subject matter.
24 Therefore, good cause supports this request, and the document referenced herein should
25 appropriately be filed under seal.

26 **III. CONCLUSION**

27 For the foregoing reasons, Oracle respectfully requests that the Court order the filing of
28

1 the document listed in detail in the attached Hann Declaration under seal. A Proposed Order is
2 submitted with this Motion.

3 DATED: August 18, 2009

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5 BINGHAM McCUTCHEN LLP

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7 By: /s/ Bree Hann
8 Bree Hann
9 Attorneys for Plaintiffs
10 Oracle Corporation, Oracle USA, Inc., and
11 Oracle International Corporation
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**DECLARATION OF BREE HANN IN SUPPORT OF
PLAINTIFFS' ADMINISTRATIVE MOTION TO FILE UNDER SEAL**

I, Bree Hann, declare:

1. I am member of the State Bar of California and counsel at Bingham McCutchen LLP, counsel of record for Plaintiffs Oracle USA, Inc., Oracle International Corporation, and Oracle EMEA Limited (collectively, "Oracle") in this action. Except for matters stated below on information and belief, I have personal knowledge of the matters stated in this declaration by virtue of my representation of Oracle in this action. If called and sworn as a witness, I could and would competently testify to such matters.

2. Pursuant to Civil Local Rule 79-5 and the stipulated Protective Order entered on June 6, 2007 in this case (Docket No. 32), I make this Declaration in support of Oracle's Administrative Motion to File Draft Stipulation Under Seal (the "Motion to Seal").

3. The requested relief is necessary and narrowly tailored to protect the alleged confidentiality of the materials put at issue by the Parties' August 18, 2009 Joint Discovery Conference Statement ("Statement"), until such time as the Court rules on the confidentiality of the relevant subject matter. Specifically, Exhibit B to the Statement contains and describes information designated by Defendants as "Confidential Information" pursuant to the Protective Order entered in this action on June 6, 2007.

4. Pursuant to Civil Local Rule 7-11, a stipulation is included with this Administrative Motion.

5. The following document contains information designated Highly Confidential and/or Confidential by Defendants:

a. Exhibit B to the Statement: Draft Stipulation

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1 I declare under penalty of perjury that the foregoing is true and correct. Executed in San
2 Francisco, California, on August 18, 2009.

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5 By: /s/ Bree Hann
Bree Hann
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